IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Bhabut Ram vs. State of Rajasthan & Ors.
(S.B.C.Writ Petition No.2444/02)

Dated:- 14th July, 2006

PRESENT

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.R.K.Soni on behalf of Mr.I.R.Choudhary,for the petitioner.
Mr.Rameshwar Dave, Dy.G.A.for the State.

Facts in brief giving rise to this writ petition are that the petitioner after due selection as Constable (C.P.) joined the services of the respondents. He holds a license for driving heavy motor vehicle . He has completed the Basic Driving and Maintenance Course in the year 1992 conducted by the Rajasthan Police Training Centre at Jodhpur. After completion of course successfully , the petitioner was posted as Driver vide order dated 20th October,1991. The petitioner has stated that he is entitled to be fixed in the pay scale of Constable Driver and is also entitled to M.T. Allowance just like any other constables posted as Constable(M.T.). The petitioner has given the examples of Shri Govind Singh, Rameshwar Lal, Banney Khan, Usman Khan and Heera Ram, whose names have appeared in the order dated 26th July, 2002 and who were even though junior to the petitioner have been adjusted against the post of Constable (M.T.) and have been granted M.T. Allowance. According to the petitioner, this order is discriminatory in nature. The petitioner submitted various representations to the respondents on 26.7.2001, 4.10.2001, 18.1.2002 and 11.4.2002 but none evoked any

response. In these circumstances, the petitioner has prayed that the respondents may be directed to adjust him on the post of Constable (M.T.) with all consequential benefits w.e.f. 20.10.1992 and to pay all arrears of pay scale of Driver and M.T. Allowance with @ 18% per annum compound interest.

Per contra, the respondents have filed their reply to the writ petition and stated that after completion of training course conducted by the Rajasthan Police Training Centre, the petitioner was actually posted on the post of Constable- Driver vide order dated 20.10.1992 and was provided the benefit of M.T. allowances w.e.f. 15.7.1992. It was therefore, denied that the petitioner has not been adjusted on the post of Constable (M.T.) and granted M.T. Allowance. It has been stated that petitioner is drunkard and he was found in drunken position several times by his superiors and was orally instructed also several times but the petitioner did not improve himself. The Reserve Inspector, Reserve Police Line, Nagaur vide letter dated 16.4.1994 intimated the Superintendent of Police, Nagaur regarding conduct of the petitioner as well as possibility of accidents which might take place if he was allowed to drive vehicles. On receipt of such administrative report, the authorities posted the petitioner again on his original post of Constable. It was denied that persons junior to the petitioner have been granted M.T. allowance. Mere completion of training by itself would not entitle him to get posting as Constable(M.T.) . Such trainings are imparted to improve and maintain the efficiency, capacity, capability and self-confidence of the police personnels .Not only this, several other training programmes are conducted on the similar pattern. It was therefore, prayed that the writ

petition filed by the petitioner should be dismissed with costs.

I have heard the arguments advanced by Shri R.K.Soni, learned counsel for the petitioner and Shri Rameshwar Dave, Dy.G.A. for the State.

Mr.R.K.Soni, learned counsel for the petitioner has argued that having imparted training, the petitioner cannot be denied posting as Constable (M.T.) . He further argued that the petitioner is entitled to seek M.T. Allowance right from the date he was posted as Driver vide order dated 20.10.1992. He has argued that many of the juniors are being allowed to continue as Constable (M.T.) and the petitioner has been discriminated against in the matter of posting in M.T.Branch.

On the other hand, Mr.Rameshwar Dave, learned Dy.G.A. Has argued that the petitioner was not continued in M.T. Branch for reasons of public interest as explained in reply to the writ petition.

I have considered the arguments advanced by both the learned counsels and perused the record.

According to the respondents, petitioner was not only posted as driver but was actually allowed the benefit of M.T. Allowance whereas in the writ petition, the petitioner has disclosed only half truth and has not given complete story as to why he was sent back to his original post by the respondents. Having received the report on the conduct of the petitioner from Motor Transport Officer and the Reserve Inspector,

Reserve Police Line, Nagaur, he was posted back as Constable. In the report received by the Superintendent of Police, Nagaur, it has been stated that the petitioner was habitual drunkard and most of the time he was found in drunken position. In the state of intoxication, he was in the habit of quarreling. He drives the vehicle in drunken position and due to which there is always apprehension of accidents and therefore, it was not proper to continue him as driver.

In view of the explanation given by the respondents, the action of the respondents cannot be held unjustified. I do not find any illegality in the action of the respondents . There is no question of violation of any principles of natural justice. M.T. allowance is paid to only such constables, who are posted in M.T. Branch and required to drive the vehicles. The allowance is therefore payable only to the constables who are actually working as Driver. No material has been placed on record nor any authority has been cited to show that mere change of posting from Police Line to M.T. Branch as Constable involves any promotion. Sending the petitioner back to his original post does not amount to reversion from a higher to lower post. The petitioner has not alleged any mala-fide against any officer of the respondent Department and therefore, his argument that his juniors are being allowed to work as Constable(M.T.) cannot be sustained. The conduct of the petitioner was such that he always remained in drunken position and therefore he was asked not to drive the vehicle which could be dangerous not only to the police personnels but to general public as well .

In view of above discussion, I do not find any merit in this

writ petition. The same is accordingly dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.